

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Olga Bentin	Team: Squad #4	CCRB Case #: 201907865	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 08/28/2019 12:50 AM	Location of Incident: [REDACTED]	Precinct: 44	18 Mo. SOL 2/28/2021	EO SOL 10/15/2021	
Date/Time CV Reported Wed, 08/28/2019 2:20 AM	CV Reported At: IAB	How CV Reported: In-person	Date/Time Received at CCRB Thu, 09/05/2019 11:03 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Edmundo Rivera	00696	955382	052 PCT
2. SGT Joseph Signorile	03197	949663	047 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Brian Mahon	26892	955116	052 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Edmundo Rivera	Abuse: Police Officer Edmundo Rivera stopped § 87(2)(b) [REDACTED]	[REDACTED]
B.SGT Joseph Signorile	Abuse: Sergeant Joseph Signorile stopped § 87(2)(b) [REDACTED]	[REDACTED]
C.POM Edmundo Rivera	Abuse: Police Officer Edmundo Rivera drew his gun.	[REDACTED]
D.POM Edmundo Rivera	Force: Police Officer Edmundo Rivera used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
E.POM Edmundo Rivera	Abuse: Police Officer Edmundo Rivera threatened § 87(2)(b) [REDACTED] with the use of force.	[REDACTED]
F.POM Edmundo Rivera	Abuse: Police Officer Edmundo Rivera searched § 87(2)(b) [REDACTED]	[REDACTED]
G.POM Edmundo Rivera	Abuse: Police Officer Edmundo Rivera frisked § 87(2)(b) [REDACTED]	[REDACTED]
H.POM Edmundo Rivera	Force: Police Officer Edmundo Rivera used a chokehold against § 87(2)(b) [REDACTED]	[REDACTED]
I.POM Edmundo Rivera	Force: Police Officer Edmundo Rivera restricted § 87(2)(b) [REDACTED] s breathing.	[REDACTED]

Case Summary

On August 28, 2019, Sgt. Joseph Signorile contacted the IAB Command Center and filed this complaint of behalf of a prisoner, § 87(2)(b). On September 5, 2019, this complaint was received at the CCRB.

On August 28, 2019, at 12:50 a.m., PO Edmundo Rivera, from the Patrol Borough Bronx Anti-Crime Unit, stopped § 87(2)(b) in the vicinity of § 87(2)(b) in the Bronx (**Allegation A: Abuse of Authority**, § 87(2)(g)). Sgt. Joseph Signorile, also from the Patrol Borough Bronx Anti-Crime Unit, stopped § 87(2)(b)'s friend, § 87(2)(b) (**Allegation B: Abuse of Authority**, § 87(2)(g)). PO Rivera allegedly drew his gun (**Allegation C: Abuse of Authority**, § 87(2)(b), § 87(2)(g)). PO Rivera allegedly pulled § 87(2)(b)'s hair braids, causing him to fall backwards (**Allegation D: Force, unsubstantiated**). PO Rivera allegedly yelled at § 87(2)(b) "Turn around before I hit you" (**Allegation E: Abuse of Authority**, § 87(2)(g)). PO Rivera allegedly placed his knee on the back of § 87(2)(b)'s head and pressed § 87(2)(b)'s face against the ground (**subsumed in Allegation D**). PO Rivera then searched § 87(2)(b) (**Allegation F: Abuse of Authority**, § 87(2)(g)). PO Rivera frisked § 87(2)(b) (**Allegation G: Abuse of Authority**, § 87(2)(g)). PO Rivera allegedly grabbed § 87(2)(b) by his throat (**Allegation H: Force**, § 87(2)(g)) and restricted his breathing (**Allegation I: Force**, § 87(2)(g)).

As a result of this incident, § 87(2)(b) was issued two C-summonses: one for disorderly conduct and one for unlawful possession of marijuana (BR 02 and BR 15). § 87(2)(b) was released at the scene.

The investigation was provided with two BWC recordings of this incident, which only partially captured the incident. There is no other known source of video evidence.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Edmundo Rivera stopped § 87(2)(b)

Allegation (B): Abuse of Authority: Sergeant Joseph Signorile stopped § 87(2)(b)

Allegation (C) Abuse of Authority: Police Officer Edmundo Rivera drew his gun.

Allegation (D) Force: Police Officer Edmundo Rivera used physical force against § 87(2)(b)

Allegation (E) Abuse of Authority: Police Officer Edmundo Rivera threatened § 87(2)(b) with the use of force.

Allegation (F) Abuse of Authority: Police Officer Edmundo Rivera searched § 87(2)(b)

Allegation (G) Abuse of Authority: Police Officer Edmundo Rivera frisked § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) (BR 01) stated that he and five of his friends, one of whom was § 87(2)(b) exited a train at the East 167th Street (4) train subway station in the Bronx. § 87(2)(b) wore blue jeans, black and blue sneakers, and a gray hooded shirt. § 87(2)(b) had a cellphone and headphones in his left pants pocket, and a cellphone charger in his right pants pocket. § 87(2)(b) denied carrying any weapons or marijuana on his person. § 87(2)(b) wore a blue sweatshirt and dark-colored jeans. § 87(2)(b) and his friends walked approximately one block down on § 87(2)(b), in the direction of § 87(2)(b), and stopped at the corner of § 87(2)(b). § 87(2)(b) denied arguing or fighting with his friends.

Approximately a minute later, § 87(2)(b) pulled § 87(2)(b) to the side to speak to him privately. Less than three seconds later, an unmarked car pulled up next to them. PO Rivera, PO Mahon, and Sgt. Signorile, described as three males who wore bullet proof vests and had guns, jumped out, and all yelled, "Stop!" § 87(2)(b) initially did not suspect the males to be police officers; he believed they were "thugs from the street." § 87(2)(b) got scared and ran. PO Rivera ran after § 87(2)(b) also ran, but § 87(2)(b) did not see in which direction.

§ 87(2)(b) ran down on § 87(2)(b) towards § 87(2)(b). He then turned south on § 87(2)(b). PO Rivera yelled that he had his gun drawn and asked him to stop. § 87(2)(b) did not turn around to see if PO Rivera had his gun drawn. § 87(2)(b) ran across and down § 87(2)(b) when PO Rivera pulled the hair braids on the back of his head, causing § 87(2)(b) to fall backwards and land on his back. § 87(2)(b) rolled onto his left side and then onto his back. PO Rivera yelled, "Turn around before I hit you." § 87(2)(b) complied and turned onto his stomach. § 87(2)(b) denied resisting PO Rivera in any manner after he fell to the ground. PO Rivera then grabbed and pulled both of § 87(2)(b)'s hands behind his back and handcuffed him. While handcuffing § 87(2)(b) PO Rivera placed his knee on the back of § 87(2)(b)'s head, pressing § 87(2)(b)'s face against the ground. § 87(2)(b) sustained scrapes and bruising to both hands, scrapes to his right knee, pain to his right arm, and an abrasion on his face. PO Rivera then placed his hands in § 87(2)(b)'s front and back pants pockets and removed his cellphone, headphones, and charger. PO Rivera then lifted § 87(2)(b) off the ground and walked him to a police vehicle.

At the 44th Precinct stationhouse, § 87(2)(b) complained of pain to his hands and knees, and asked to be taken to the hospital. § 87(2)(b) was transported to § 87(2)(b) Hospital via ambulance. § 87(2)(b) was given an ice pack and was released approximately 30 minutes later. § 87(2)(b) was released and issued two summonses.

§ 87(2)(b)

The investigation was unable to establish contact with § 87(2)(b) (BR 05 and BR 17).

PO Rivera (BR 03) and PO Mahon (BR 04) did not record this part of the incident on their body-worn cameras because the incident unfolded fast and because they were adjusting to the use of the cameras which were issued to them in June of 2019. According to the NYPD BWC Deployment Roster (BR 18), PO Rivera and PO Mahon were issued their body-worn cameras on June 6, 2019. There is no other known source of video evidence.

PO Rivera (BR 03) stated that he, PO Mahon, and Sgt. Signorile stopped at a red light at the intersection of § 87(2)(b) and § 87(2)(b). The officers were driving an unmarked car. PO Mahon was the driver, Sgt. Signorile was sitting in the front passenger seat, and PO Rivera was sitting on the rear behind PO Mahon. While waiting for the light to change, PO Rivera saw a group of approximately eight young males yelling, arguing, and swinging at each other on the sidewalk, approximately three car lengths ahead of their unmarked car. It appeared to that the group was about to fight. PO Mahon drove closer to observe the group when two males, § 87(2)(b) and § 87(2)(b) turned around, gave the officers a "wide-eye look," and then separated from the group by quickly walking away in the opposite direction.

§ 87(2)(b) walked several feet away and grabbed and held the front of his waistband. § 87(2)(b) kept turning his head and looking in the direction of the officers. PO Rivera did not see what § 87(2)(b) was clutching in front of his waistband, but § 87(2)(b)'s strange behavior made him believe that § 87(2)(b) was carrying a weapon. It was dark outside, but the street was well-lit by street lights. PO Rivera was less than 20 feet away from § 87(2)(b) when he observed him do this.

The officers then decided to stop § 87(2)(b) and § 87(2)(b) to find out what was going on. When the officers leveled up with the males, § 87(2)(b) and § 87(2)(b) split up and ran in opposite directions. PO Rivera, PO Mahon, and Sgt. Signorile had no time to issue any commands. PO Rivera immediately exited the vehicle and ran after § 87(2)(b) and Sgt. Signorile ran after § 87(2)(b). PO Rivera yelled to § 87(2)(b) “Police. Stop!” § 87(2)(b) did not comply and continued to run. PO Rivera had his shield displayed over his bullet proof vest and, therefore, denied any possibility that § 87(2)(b) did not know PO Rivera was an officer. PO Rivera denied drawing his gun while chasing after § 87(2)(b).

As PO Rivera chased after § 87(2)(b) clutched a black object in his left hand. PO Rivera could not describe the dimensions of the object or its shape, but it was consistent with the size and shape of a weapon, such as a knife or a gun. § 87(2)(b) ran across the street and turned around the corner. PO Rivera followed him and almost got hit by a vehicle. § 87(2)(b) ran for approximately half a block and then dropped down to the ground. PO Rivera was not sure why § 87(2)(b) dropped to the ground. PO Rivera denied grabbing or pulling § 87(2)(b) by his braids. PO Rivera heard something hit the ground and believed that § 87(2)(b) threw the object he initially held in his left hand. PO Rivera ran up to § 87(2)(b) grabbed his hands, and handcuffed him. § 87(2)(b) rolled over once or twice, but this happened as he fell to the ground. § 87(2)(b) did not, otherwise, resist. PO Rivera denied saying to § 87(2)(b) “Turn around before I hit you,” or threatening to use force against § 87(2)(b). PO Rivera denied placing his knee to the back of § 87(2)(b) s neck and pressing § 87(2)(b) s face against the ground.

PO Rivera lifted § 87(2)(b) up and quickly patted § 87(2)(b) s pants pockets for weapons. PO Rivera did not feel any bulges consistent with a weapon. PO Rivera denied searching § 87(2)(b) after handcuffing him. PO Rivera canvassed the area for the discarded object and found a black cellphone approximately five feet away from where § 87(2)(b) fell. PO Rivera then realized that § 87(2)(b) was holding the cell phone in his left hand while running away from him. PO Rivera did not see any visible injuries to § 87(2)(b) s face, knees, or elbows, nor did he hear § 87(2)(b) complain of pain or injuries. PO Rivera acknowledged that, at the stationhouse, § 87(2)(b) complained of a headache and requested medical attention.

The Stop Report (BR 07) prepared by PO Rivera is generally consistent with his testimony, with the following additional information. The report notes that PO Rivera frisked § 87(2)(b) for “object observed suspected of being a weapon,” and searched for “hard object resembling a weapon.” PO Rivera stated that he searched § 87(2)(b) only before placing him in to the police vehicle prior to the transport to the stationhouse, and that he listed the above reason for the search, because he deemed it to be the most appropriate option.

The Threat, Resistance, and Injury Report (TRI) (BR 06) prepared by PO Rivera documents that he used a “forcible take down” against § 87(2)(b). PO Rivera denied utilizing a forcible take down, and explained that he had to document § 87(2)(b) s fall in some way, so marking “Yes,” in the section “Forcible Take Down” was the most applicable option.

§ 87(2)(g). PO Mahon acknowledged that he observed a group of young males and females yelling and arguing with each other. § 87(2)(b) and § 87(2)(b) separated from the group. § 87(2)(b) grabbed and held the front of his waistband as if he was holding something. PO Mahon did not see what, if anything, he hold onto. § 87(2)(b) also held a small dark or black-colored object in his right hand. PO Mahon did not know what the object was and he could not describe it. However, based on his training and experience, the fact that § 87(2)(b) separated from the group while clutching his waistband, and his nervous appearance, PO Mahon believed that § 87(2)(b) had some sort of weapon. After § 87(2)(b) was apprehended, PO Mahon learned that the black object was § 87(2)(b) s cellphone.

Before the officers could say anything to § 87(2)(b) and § 87(2)(b) the males split

up and ran in opposite directions. PO Rivera chased after § 87(2)(b) PO Mahon drove after PO Rivera. Sgt. Signorile ran after § 87(2)(b) PO Rivera ordered § 87(2)(b) to stop, but the latter did not comply. PO Mahon denied that PO Rivera drew his gun while chasing after § 87(2)(b) ran down the sidewalk. PO Mahon did not see § 87(2)(b) run across the street. § 87(2)(b) and PO Rivera ran for approximately half a block. PO Mahon noticed § 87(2)(b) lay on the ground and PO Rivera running towards him. PO Mahon did not see how or what caused § 87(2)(b) to get down onto the ground. PO Rivera did not grab or pull § 87(2)(b)'s hair braids. PO Rivera handcuffed § 87(2)(b) did not resist. PO Rivera did not place a knee on the back of § 87(2)(b)'s neck. PO Mahon did not hear PO Rivera say to § 87(2)(b) "Turn around before I hit you." PO Mahon approached and asked PO Rivera if he was alright. PO Mahon then returned to the unmarked vehicle and looked for Sgt. Signorile. PO Mahon did not see PO Rivera search § 87(2)(b) after handcuffing him.

People v. De Bour 40 N.Y. 2d 210 (1976) (BR 08), an officer must have a reasonable suspicion that an individual has participated in criminal activity before stopping him or her. A pat-down frisk may be conducted when an officer reasonably suspects that the individual is in possession of a weapon. Furtive movements and nervous behavior, absent more, cannot provide the police with a founded suspicion of criminality. People v. Negroni, 38 Misc. 3d 1224(A) (Sup. Ct. Bronx County) (2013) (BR 09) Behavior which alone is susceptible of innocent as well as guilty interpretation will not generate a founded or reasonable suspicion that criminality is afoot. People v. Barreto, 161 A.D.2d 305 (1st Dept. 1990) (BR 10) People v. Bora 83 NY 2d 531 (1994) (BR 11) states that an officer may stop a person when he reasonably suspects that such a person is committing, has committed, or is about to commit a crime. An interaction constitutes a stop when a reasonable person would believe, under the circumstances that the officer's conduct is a significant limitation on his or her freedom of movement. The court also held that a defendant is not seized when a police officer asks him to stop. A seizure requires either physical force or, if there is no physical force, a submission to the assertion of authority.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation (H) Force: Police Officer Edmundo Rivera used a chokehold against § 87(2)(b).

Allegation (I) Force: Police Officer Edmundo Rivera restricted § 87(2)(b)'s breathing.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) (BR 01) alleged that after PO Rivera brought him to the police vehicle, PO Rivera, PO Mahon, and Sgt. Signorile asked § 87(2)(b) and § 87(2)(b) why they ran. § 87(2)(b)

§ 87(2)(b) did not reply to the officers' questions. PO Rivera then grabbed § 87(2)(b) by his throat with his left or right hand, and pushed § 87(2)(b) so that his back leaned against the vehicle. PO Rivera held § 87(2)(b) by his throat for approximately a minute and released § 87(2)(b) after § 87(2)(b) complained that he could not breathe. § 87(2)(b) did not sustain any injuries as a result.

The investigation was unable to establish contact with § 87(2)(b) (BR 05 and BR 17).

As discussed above, PO Rivera (BR 03) and PO Mahon (BR 04) did not record this part of the incident on their body worn cameras. There is no other known source of video evidence.

PO Rivera (BR 03) stated that he brought § 87(2)(b) to the vehicle and saw that Sgt. Signorile and § 87(2)(b) were already there. § 87(2)(b) was apologetic and told the officers that they were not fighting, and were just playing with each other. § 87(2)(b) on the other hand, continued to be disrespectful towards the officers. However, PO Rivera denied grabbing § 87(2)(b) by his throat, using a chokehold, or obstructing § 87(2)(b)'s breathing in any manner.

PO Mahon (BR 04) also denied that PO Rivera contacted § 87(2)(b)'s throat, or restricted his breathing in any manner.

§ 87(2)(b), § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- § 87(2)(b)
- PO Edmundo Rivera has been a member-of-service for six years and has been a subject in 13 CCRB complaints and 49 allegations, of which seven were closed as substantiated:
 - 201605007 involved a substantiated allegation of stop against PO Rivera. The Board recommended Command Discipline A and the NYPD imposed Formalized Training.
 - 201607995 involved substantiated allegations of vehicle search, vehicle stop, and failure to prepare a memo book entry against PO Rivera. The Board recommended Formalized Training and Instruction for failure to prepare memo book entry. The NYPD imposed Formalized Training for all allegations.
 - § 87(4-b), § 87(2)(g)
 - PO Rivera's CCRB history does not reflect any patterns pertinent to this investigation.
- Sgt. Joseph Signorile has been a member-of-service for nine years and has a subject in eight CCRB complaints and 22 allegations, of which three were closed as substantiated:
 - 201601216 involved substantiated allegations of frisk and search of a person, and vehicle search. The Board recommended Command Discipline B and the NYPD imposed Command Discipline A.
 - 201901733 involves allegations of entry and search of the premises, and threat of force against Sgt. Signorile. The case is currently pending investigation.
 - 201902427, involves allegations of discourtesy, physical force, threat of force, refusal to obtain medical treatment against Sgt. Signorile. The case is currently pending investigation.
 - Sgt. Signorile's CCRB history does not reflect any pattern pertinent to this investigation.

- This complaint was not suitable for mediation.
- A FOIL request was sent to the NYC Comptroller on December 10, 2019, for any Notice of Claim filed in regard to this incident. The results of the request will be added to the case file upon receipt.
- § 87(2)(b)

Reviewer: _____

Signature Print Title & Name Date